

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition:** 35-007-18-1-5-01187-18  
**Petitioner:** David Guithues  
**Respondent:** Huntington County Assessor  
**Parcel:** 35-01-15-400-012.100-007  
**Assessment Year:** 2018

The Indiana Board of Tax Review (“Board”) issues this determination, finding and concluding as follows:

**PROCEDURAL HISTORY**

1. David Guithues contested the 2018 assessment of his residential rental property located at 535 North Seminary Street in Roanoke. The Huntington County Property Tax Assessment Board of Appeals (“PTABOA”) determined the total value was \$47,300 (land \$100 and improvements \$47,200).
2. Guithues timely filed a Form 131 petition with the Board, electing to proceed under our small claims procedures. On February 21, 2019, Joseph Stanford, our designated administrative law judge (“ALJ”) held a hearing on the petition. Neither he nor the Board inspected the subject property.
3. Guithues and Huntington County Assessor Terri L. Boone both appeared pro se. Guithues, Boone, and Deputy Assessor Julie Newsome were sworn as witnesses.

**RECORD**

4. The official record for this matter contains the following:

a) Exhibits:

Petitioner Exhibit 1:	Form 131
Petitioner Exhibit 2:	Form 115
Petitioner Exhibit 3:	Form 134
Petitioner Exhibit 4:	Form 130
Petitioner Exhibit 5:	Subject property record card; letter from Mandy Woods of Huntington Countywide Department of Community Development, dated January 7, 2019
Petitioner Exhibit 6:	Beacon property record cards and photographs for seven (7) properties
Petitioner Exhibit 7:	Conclusion

Petitioner Exhibit 8:<sup>1</sup> Advertisement from *Huntington County Tab*

Respondent Exhibit 1: Form 131  
Respondent Exhibit 2: Form 115  
Respondent Exhibit 3: Form 134  
Respondent Exhibit 4: Form 130  
Respondent Exhibit 5: Subject property record card and photograph  
Respondent Exhibit 6: Sales disclosure form  
Respondent Exhibit 7: Value approach analysis  
Respondent Exhibit 8: Market rent analysis (CONFIDENTIAL)  
Respondent Exhibit 9: Aerial photograph of the Town of Roanoke  
Respondent Exhibit 10: Concluding Statement  
Respondent Exhibit 11: Ind. Code § 6-1.1-35-9

- b) The record also includes all pleadings, briefs, motions, and documents filed in this appeal; all notices and orders issued by the Board or our ALJ; and an audio recording of the hearing.

#### SUMMARY OF CONTENTIONS

5. Guithues' case:

- a) The subject property's assessment is too high for a two-bedroom, one-bathroom home that sits on a small lot in a flood plain. It increased from \$32,900 in 2017 to \$47,300 in 2018. The subject's size, location, and poor condition explain why he was able to buy it for \$30,000—that is all it is worth. *Guithues testimony; Pet'r Exs. 5, 7.*
- b) Guithues offered assessment information for seven comparable rental properties in Huntington County. He also calculated the difference between the sales prices and the 2018 assessments for the subject and the five properties the Assessor used to develop a gross income multiplier ("GIM"). Additionally, Guithues calculated and compared the yearly return on investment for the subject and four unidentified properties. He also offered a newspaper advertisement for three-bedroom, two-bathroom rental homes with rents starting at \$465/month as an example of the rental rates he is competing against. *Guithues testimony; Pet'r Exs. 6, 7, 8.*
- c) Guithues disagrees with the Assessor's calculation of the subject property's value because it is based on the rent he should get, rather than the rent he actually charges. Both Guithues and his renters are content with the amount of rent he charges. Unlike other property owners in the county, Guithues has long-term renters and is never in court trying to collect back-rent. He also maintains that, unlike the properties used by the Assessor, a single individual rents his property because it is not large enough to accommodate a family. Homes with three bedrooms and two bathrooms that rent for \$800-\$1,000/month cater to a different type of renter/rental market than his property. *Guithues testimony; Pet'r Ex. 7.*

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<sup>1</sup> Guithues labeled this document Attachment #1. For ease of reference, we have relabeled it as Petitioner Exhibit 8.

6. The Assessor's case:

- a) The subject property is a one-story frame dwelling built in 1953 on an 81'x155' lot. It has 984 square feet of living space, with two bedrooms and one bathroom. It also has a 360 square foot attached garage. Guithues purchased the property in March 2012 for \$30,000. However, because it was a foreclosure property, the Assessor does not consider Guithues' purchase price to be a fair market sales price. *Newsome testimony; Resp't Exs. 6, 7.*
- b) The Assessor performed a sales-comparison approach using sales of comparable properties located in the same taxing district in Roanoke. The comparable properties sold for prices ranging from \$40.20/SF to \$106.59/SF during 2016 or 2017, producing an indicated value of \$67,500 for the subject property. However, the Assessor determined that the sales-comparison approach was not applicable. *Newsome testimony; Resp't Exs. 7, 10.*
- c) The Assessor had applied a negative factor to the dwelling since 2012 because it was vacant and was going through the foreclosure process. Applying the negative factor to the value produced by the cost approach resulted in an assessment of \$32,900 for 2017. But 2018 the Assessor removed that factor and changed the condition of the property because it was no longer vacant. As a result, the cost approach produced a value of \$67,300 for the 2018 assessment date. *Newsome testimony; Resp't Exs. 7, 10.*
- d) While the Assessor considered all three approaches to value, she ultimately placed the most weight on the income approach because the subject is a rental property. She developed a GIM of 7, which represents the relationship between value and income, using five comparable properties located in Roanoke that sold between June 2016 and May 2018:
- 183 Oak Park Drive – a one-story home on a slab built in 1976. It has 1,304 square feet, with three bedrooms and two bathrooms.
  - 281 W. Vine Street – a one-story home on a crawl built in 1946, with an effective age of 1979 due to improvements. It has 1,286 square feet, with three bedrooms and 1 1/2 bathrooms.
  - 543 Commercial Street – a one-story home built in 1900, with an effective age of 1955. It has 1,260 square feet, with two bedrooms, a full bathroom, a basement, and a detached garage.
  - 664 Commercial Street – a one-story home built in 1900, with an effective age of 1945. It has 1,152 square feet, with two bedrooms, a full bathroom, a basement, and an unfinished attic.
  - 857 N. Seminary Street – a one-story home on a slab built in 1986. It has 1,578 square feet, with three bedrooms and two full bathrooms.

*Newsome testimony; Resp't Exs. 7, 8.*

e) The Assessor developed an economic rent (market rent) of \$6,800 from twelve rental properties:

- 297 Vine Street – a one-story home built in 1971 that is in fair condition. It has 1,379 square feet and two bedrooms.
- 11271 N. Roanoke Road – a one-story home built in 1966 that is in average condition. It has 832 square feet and two bedrooms.
- 371 Coe Street – a 1 1/2 story home built in 1896 that is in average condition. It has 1,292 square feet and two bedrooms.
- 161 W. Fifth Street – a one-story home built in 1964 that is in average condition. It has 1,216 square feet and three bedrooms.
- 439 Canal Street – a one-story home built in 1956 that is in average condition. It has 900 square feet and two bedrooms.
- 8493 N. Roanoke Road – a one-story home built in 1954 that is in average condition. It has 1,447 square feet and four bedrooms.
- 3316 E. 716 N. – a one-story home built in 1973 that is in average condition. It has 1,340 square feet and three bedrooms.
- 1080 Steven Court – a one-story home built in 1991 that is in average condition. It has 1,282 square feet and three bedrooms.
- 734 Commercial Street – a one-story home built in 1992 that is in average condition. It has 1,014 square feet and three bedrooms.
- 183 Oak Park Drive – a one-story home built in 1976 that is in average condition. It has 1,304 square feet and three bedrooms.
- 857 Seminary Street – a one-story home built in 1986 that is in average condition. It has 1,578 square feet and three bedrooms.
- 664 Commercial Street – a one-story home built in 1900 that is in fair condition. It has 1,152 square feet and two bedrooms.

*Newsome testimony; Resp't Ex. 8.*

f) Multiplying the GIM of 7 by the economic rent of \$6,800 produced a value of \$47,600. The Assessor felt that the results of her income approach were close enough to the PTABOA's determination that she would agree to an assessed value of \$47,300 for the subject property. *Newsome testimony; Resp't Exs. 7, 8, 10.*

### **BURDEN OF PROOF**

7. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Ind. Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b) and (d).

8. Here, Guithues offered no argument that the burden of proof should shift to the Assessor, and our ALJ preliminarily ruled that Guithues bears the burden. However, the assessment increased from \$32,900 in 2017 to \$47,300 in 2018, or approximately 43%. Because the assessment increased by more than 5%, we conclude the Assessor bears the burden of proof.

#### ANALYSIS

9. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. "True tax value" does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines "true tax value" as "market value in use," which it in turn defines as "[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." MANUAL at 2.
10. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are "appropriate for determining true tax value." MANUAL at 2. The gross rent multiplier ("GRM"), however, is the "preferred" method of valuing properties with between one and four residential rental units.<sup>2</sup> I.C. § 6-1.1-4-39(b). In an assessment appeal, parties may offer any evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. MANUAL at 3; *see also Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the appraisal method used, a party must relate its evidence to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For 2018, the valuation date was January 1, 2018. Ind. Code § 6-1.1-2-1.5(a).
11. As explained above, the Assessor had the burden of proving that the subject property's 2018 assessment of \$47,300 is correct. In support of her position, the Assessor presented valuations prepared using all three approaches to value. However, as part of making a prima facie case, "it is the taxpayer's duty to walk the [Board] through every element of [its] analysis." *Long*, 821 N.E.2d at 471 (quoting *Clark v. Dep't of Local Gov't Fin.*, 779

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<sup>2</sup> Indiana has not defined the term GRM by statute or regulation, but it is a commonly used appraisal term. The GRM method develops an income multiplier by looking to market data for sales of comparable income-producing properties and calculates the ratio of the sale price to the gross income at the time of the sale. An opinion of value can then be calculated by multiplying the GRM by the annual income base for the subject property.

The GRM method eliminates the complex value adjustments required by the sales-comparison approach by assuming differences between the properties are reflected in their respective rental rates. However, in order to derive and apply a reliable GRM for valuation purposes the properties analyzed must still be comparable to the subject property and to one another in terms of physical, locational, and investment characteristics.

N.E.2d 1277, 1282 n. 4 (Ind. Tax Ct. 2002)). This requirement applies equally to an assessor bearing the burden. In this case, the Assessor failed to adequately explain how she arrived at her opinions of value under any of the valuation methods she employed.

12. With regard to the sales-comparison approach, the Assessor did not even identify the comparable sales she relied on, let alone demonstrate their comparability to the subject or explain how any differences affected value. *See Long*, 821 N.E.2d at 471 (explaining that the proponent must 1) establish that properties are comparable by identifying the characteristics of the subject property and explaining how those characteristics compare to the characteristics of the purportedly comparable properties; and 2) explain how any differences between the properties affect their relative market values-in-use). And despite claiming that this approach produced an indicated value of \$67,500 for the subject property, we note the Assessor described the approach as “not applicable” in her Concluding Statement.
13. Turning to the cost approach, the Assessor explained that she removed a negative influence factor and changed the condition rating of the subject property for the 2018 assessment. However, she completely failed to walk us through her cost approach analysis.<sup>3</sup> To the extent the Assessor thought that the subject property’s 2018 property record card (“PRC”) would serve that purpose, we note that merely applying the DLGF’s Guidelines is insufficient. To prove that the 2018 assessment is an accurate reflection of the subject property’s true market value-in-use, the Assessor needed to use market-based evidence. *Eckerling*, 841 N.E.2d at 678. Even if the Assessor used market-based evidence to develop the PRC, she nevertheless failed to provide any meaningful testimony or analysis regarding its development. We also note that the PRC she offered reflects the PTABOA’s valuation, not the \$67,300 value she put forward.
14. The Assessor’s income approach likewise fails. As discussed above, the GRM is the “preferred” method of valuing properties with between one and four residential rental units in Indiana. However, the Assessor presented an income approach utilizing the GIM method. The GRM and GIM methods are similar; the one important difference being that a GRM is based on the gross income derived from rents only, while a GIM is based on the gross income attributable to all sources, including, but not limited to, rent. *Maloof v. San Juan Co. Valuation Protests Bd.*, 114 N.M. 755, 760 n. 1; 1992-NMCA-127; 845 P.2d 849 (1992 N.M. App.) While either method can produce reliable results, the income data used must be consistent. In this case, however, the Assessor failed to establish that the rental rates she relied on to calculate her multiplier and her market rent were all reflective of the same type of income data.
15. As with the GRM method, the properties analyzed to develop a GIM must also be comparable to the subject property in terms of physical, locational, and investment characteristics. But other than providing a basic description of the properties used to calculate her multiplier and her market rent, the Assessor did little to identify their

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<sup>3</sup> To arrive at an estimate of the subject property’s total value using the cost approach, an appraiser 1) calculates the cost new of the improvements; 2) subtracts accrued depreciation to arrive at an estimate of the improvement’s value; and 3) adds the value of the land as if vacant. *MANUAL* at 9.

relevant characteristics or compare them to the subject property. Furthermore, while the properties may all be rentals, she failed to offer any meaningful testimony regarding their investment characteristics.

16. Additionally, on the spreadsheet detailing the five properties she used to arrive at her GIM, only three of the properties have an individual GIM calculation. While we located an individual GIM calculation for 857 Seminary Street on the spreadsheet containing the Assessor's market rent data, we were unable to find any information regarding the rental rate or resulting GIM for 281 W. Vine Street in the record. And we are simply unable to discern how the Assessor derived a GIM of 7 from this data without further explanation. The Assessor's market rent estimate suffers from the same problem. Although the Assessor provided the rent information for all 12 purportedly comparable rental properties, she failed to explain how she arrived at \$6,800.
17. Because the Assessor did not offer probative valuation evidence, she failed to make a prima facie case that the subject property's 2018 assessment was correct. Guithues is therefore entitled to have his 2018 assessment reduced to its 2017 assessed value of \$32,900. That does not end our inquiry, however, because it appears Guithues is seeking a lower valuation.
18. Guithues' evidentiary presentation suffers from the same problem as the Assessor's—he failed to walk us through his various analyses in sufficient detail. For example, Guithues offered assessment information for seven purportedly comparable rental properties. Under Ind. Code § 6-1.1-15-18(c)(1), such information can be used to prove market value-in-use. But Guithues needed to do more than just offer the assessment information—he needed to establish the comparability of the properties being examined, and explain how any differences between the properties affect their relative market values-in-use. *Long*, 821 N.E.2d at 470, 471. Moreover, he did not use any of his analyses to calculate a proposed assessment for his property.
19. To the extent Guithues asserted that his \$30,000 purchase price reflects property's correct value, we disagree. The purchase price of a property can be the best evidence of a property's value. *Hubler Realty Co. v. Hendricks Co. Ass'r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010). However, Guithues did not dispute the Assessor's claim that he purchased the property in a foreclosure sale. Furthermore, the sale occurred in March 2012, almost six years prior to the January 1, 2018 valuation date, and Guithues failed to relate his purchase price to that date as required by *Long*.
20. Because Guithues offered no probative market-based evidence to support a lower market value-in-use, he failed to make a prima facie case for a further reduction.

#### **FINAL DETERMINATION**

21. In accordance with the above findings and conclusions, we order the 2018 assessment reduced to \$32,900.

ISSUED: May 22, 2019

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice.

The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.